

# SENATE BILL REPORT

## SB 5518

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As Passed Senate, February 2, 2022

**Title:** An act relating to the occupational therapy licensure compact.

**Brief Description:** Concerning the occupational therapy licensure compact.

**Sponsors:** Senators Muzzall, Keiser, Cleveland, Conway, Gildon, Hunt and Randall.

**Brief History:**

**Committee Activity:** Health & Long Term Care: 1/17/22, 1/19/22 [DP].

**Floor Activity:** Passed Senate: 2/2/22, 47-0.

**Brief Summary of Bill**

- Adopts the Occupational Therapy Licensure Compact (compact) to allow professionals who are licensed in a compact state to provide interstate occupational therapy services.

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### SENATE COMMITTEE ON HEALTH & LONG TERM CARE

**Majority Report:** Do pass.

Signed by Senators Cleveland, Chair; Frockt, Vice Chair; Muzzall, Ranking Member; Conway, Holy, Keiser, Padden, Randall, Rivers, Robinson, Sefzik and Van De Wege.

**Staff:** Julie Tran (786-7283)

**Background:** Department of Health (DOH) certifies, licenses, and regulates 44 health professions in Washington State. Most of these health professions are governed by a board, commission or advisory committee which are supported by DOH. Each health profession's scope of practice is defined in law, and must fully cover the costs of its licensing and disciplining activities through fees for licensing, renewal, registration, certification, and examination. All health professions are subject to the Uniform Disciplinary Act (UDA).

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*This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not part of the legislation nor does it constitute a statement of legislative intent.*

Under the UDA, DOH or a professional board or commission may take disciplinary action against an individual licensed as a health professional for unprofessional conduct. Disciplining actions include fines, license revocations, and practice restrictions.

Occupational therapists (OTs) and occupational therapy assistants (OTAs) are individuals who are licensed to provide and assist in the evaluation, treatment, and consultation therapy services for individuals who are limited by physical injury, or illness, psychosocial dysfunction, developmental or leaning disabilities, or the aging process.

Occupational Therapy Licensure. To be licensed as an OT or an OTA by DOH, an applicant must:

- graduate from a nationally accredited, board-approved school;
- have employment history that accounts for any time gaps from the time of graduation to the application date;
- obtain a passing score on the National Board for Certification in Occupational Therapy exam;
- complete the supervised fieldwork experience requirement, which is six months for OTs and two months for OTAs; and
- receive a passing grade of 100 percent on the online jurisprudence examination.

Occupational Therapy Licensure Compact. The American Occupational Therapy Association (AOTA) administers the Occupational Therapy Licensure Compact (compact) to establish standards and procedures authorizing licensed OTs and OTAs to practice across state lines. The compact is governed by a commission that includes one delegate from each state that has adopted the compact. As of January 2022, nine states have enacted the compact and it is not effective until ten states have enacted the compact.

**Summary of Bill:** Authority to Practice Occupational Therapy Under the Occupational Therapy Licensure Compact. The compact is adopted in Washington. The compact authorizes licensed OTs and OTAs who meet specified standards and possess compact privileges to practice occupational therapy in another compact state, which is referred to as a remote state. A licensed OT or OTA may practice in another compact state under the compact if the OT or OTA is licensed in their state of residence, which is a member of the compact and considered their home state. A home state is the licensed individual's primary state of residence. To be a compact member state and grant compact privilege, a compact state must:

- license OTs and OTAs;
- participate fully in the Occupational Therapy Compact Commission (compact commission) and provide for a delegate to attend all compact commission meetings;
- have a mechanism for receiving and investigating complaints about licensees;
- notify the compact commission of any adverse action or investigative information regarding a licensee;
- implement or use procedures for the consideration of an applicant's criminal history records for an initial compact privilege, which includes a federal fingerprint

- background check;
- have licensure requirements that include continuing competence and education components and the use of a recognized national examination; and
- comply with the bylaws and rules of the compact commission.

Occupational Therapy Licensure Compact Privilege. A compact state can charge a fee for granting compact privilege and a licensee may only access the compact privilege if their primary state of residence enacts the compact. To exercise compact privilege, a licensee must:

- hold a license in the home state;
- have a valid U.S. social security number or national practitioner identification number;
- have no encumbrance on any state license or compact privilege in the past two years;
- notify the compact commission that the licensee is seeking compact privilege in a remote state;
- pay any applicable fees including any state fee and fees associated with a completed criminal background check;
- meet any jurisprudence requirements established by the remote state or states, which the licensee is seeking compact privilege; and
- report to the compact commission any adverse action taken by a nonmember state within 30 days from the date which the adverse action is taken.

The compact privilege is valid until the expiration date of the home state license. A licensee providing occupational therapy services in a remote state under the compact privilege must practice within the remote state's laws and regulations and the licensee is subject to that remote state's regulatory authority.

If a home state license is encumbered, the licensee is ineligible for the compact privilege in any remote state until two years after the date that the home state license is no longer encumbered. An encumbered license is a license in which an adverse action restricts the practice of occupational therapy by the licensee or said adverse action has been reported to the national practitioners data bank.

If a licensed OT or OTA's compact privilege in any remote state is removed, the licensed individual may lose the compact privilege in any other remote state until two years have passed from the period which the compact privilege was removed; all fines and conditions, if any, have been met; and compact privileges are reinstated by the compact commission, with the compact's data system reflecting the reinstatement.

A licensed OT or OTA with compact privilege may obtain a new home state license if the change of primary state residence is between compact member states. The licensee must complete a new federal fingerprint background check and any state required criminal background check; file an application; pay all applicable fees; notify the current and new home state; and submit to any jurisprudence requirement from the new home state. Once

the new home state activates the new home state license, the former home state must convert the former home state license into a compact privilege.

If a licensed OT or OTA changes primary state of residence from a compact member state to a nonmember state, or from a nonmember state to a compact member state, the state's criteria for the issuance of a single-state license in the new state applies. Licensed OTs and OTAs are still able to hold a single-state license in multiple states.

Active duty military personnel or their spouses must designate a home state where the individual holds a current license in good standing. The licensee may retain the home state designation during the period which the service member is on active duty.

A licensed OT or OTA may hold a home state license in only one member state at a time. The home state holds exclusive power to impose adverse action against an OT or OTA's license issued by the home state. If the home state takes any adverse action against an OT or OTA's license, the OT or OTA's compact privilege in all other member states must be deactivated until all encumbrances have been removed from the state license.

Remote states may take adverse action against a licensee's compact privilege in that state and issue enforceable subpoenas for witnesses and evidence from other member states. Any compact member state may take adverse action based on the factual findings of a remote state. If a compact member state takes adverse action against an OT or OTA's license, that compact state must notify the compact commission's data system administrator, who must notify the home state of any adverse action by the remote states. Compact states may initiate joint investigations of licensees and compact states report any adverse action the compact commission's data system.

The home state must take reported adverse action from any member state into account. If an OT or OTA changes their home state during an active investigation by the former home state, the former home state must complete the investigation, take appropriate action under that state's laws, and then report the findings to the compact commission's data system. The new home state is notified of any adverse action by the compact commission's data system administrator.

Occupational Therapy Compact Commission. The compact commission is created consisting of one voting delegate from each compact state. The delegate must be a current member of the compact state's licensing board, who is an OT, OTA, or public member; or an administrator of the compact state's licensing board. The compact commission also has an executive committee comprised of seven compact commission members and two nonvoting members, with one member each from a recognized national occupation therapy professional association and a recognized national occupational therapy certification organization. The executive committee recommends rules to the full compact commission, oversees administrative services, prepares the budget, and monitors compliance of compact states.

The compact commission is responsible for the development and maintenance of a coordinated licensure data system. The data system contains licensure and disciplinary action information on all licensed OTs and OTAs covered by the compact. Compact states must submit data to the data system on all licensed OTs and OTAs, which includes:

- identifying information;
- licensure data;
- significant investigatory information;
- adverse actions against a license or compact privilege;
- nonconfidential information related to alternative program participation;
- any licensure application denials and the reasons for the denial; and
- other information that may facilitate the administration of this compact.

The compact commission must promptly notify all compact states of any adverse action taken against a licensee or an individual applying for a license covered by the compact. Compact states may designate information that may not be shared with the public without express permission from the contributing compact state.

The compact commission may establish and collect annual assessments from each compact state to cover the costs of the compact commission's operations and activities.

The compact is effective on the enactment date of the tenth state. A compact state may withdraw from the compact by repealing the statute adopting the compact. A withdrawal from the compact is effective six months after the enactment of the repealing statute.

**Appropriation:** None.

**Fiscal Note:** Available.

**Creates Committee/Commission/Task Force that includes Legislative members:** No.

**Effective Date:** Ninety days after adjournment of session in which bill is passed.

**Staff Summary of Public Testimony:** PRO: The compact will ensure that we can address the workforce shortage and meet the needs for our military families with the certification reciprocity. As frequent moves limit career options for military spouses and uproot a family's financial stability, passing this compact will help military spouses get their licenses and get to work quickly. Also, this compact allows providers to follow their patients using telehealth and continue their therapy uninterrupted.

**Persons Testifying:** PRO: Senator Ron Muzzall, Prime Sponsor; Kate White Tudor, Washington Occupational Therapy Association; Cheryl Crow; Kathryn Greene; Patricia Toole; Tammie Perreault, Department of Defense; Amy Anderson, Association of Washington Business.

**Persons Signed In To Testify But Not Testifying:** No one.